

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00921R

Parcel No. 280/00300-005-000

Tim Houge,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 16, 2016. Tim Houge was self-represented. Assistant County Attorney Mark Taylor represented the Polk County Board of Review.

Tim Houge is the owner of a residential, one-story home located at 12906 NW 146th Avenue, Madrid. Built in 2007, it has 1680 square feet of above-grade finish; a full, unfinished basement; a patio; an open porch; and a three-car attached garage. The site is 3.001 acres. (Ex. A).

The property's January 1, 2015, assessment was \$257,800, allocated as \$58,800 in land value, and \$199,000 in improvement value. Houge's protest to the Board of Review claimed the assessment was not equitable as compared with the assessments of other like property and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a & d). The Board of Review denied the petition. Houge then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b).

PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Inequity and Error Claims

i. Applicable Law

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

An error claim under section 441.37(1)(a)(4) is not limited solely to clerical or mathematical errors. The plain language on which the taxpayer rests its claim allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(a)(1)(d).

ii. Findings of Fact

Houge contends his property is inequitably assessed and has an error in the assessment. These claims are essentially intertwined and relate to Houge's home heating and cooling system and the grade of the property. Houge asserts that the central air unit should not be included in his assessment and that his heating and cooling system is assessed differently than other properties. Houge also asserts the grade of his property is incorrect.

Geo-thermal Cost

Houge believes the inclusion of central air for his property is an error because he does not have a traditional central air conditioning compressor; rather, his home has a geo-thermal heating system that houses the cooling element internally. Houge acknowledged his home has both heated and cooled air; but points out his are assessed significantly higher than the three neighboring properties. (Exs. B & D). In particular, Houge points out his central air costs are higher on a per-square-foot basis than the neighboring properties, and his total heating/cooling costs are well over those properties. The properties Houge selected and the costs associated with their heating and cooling features are listed in the chart below.

| Address | Heating/Cooling Type | Gross Living Area (GLA) | Heat Cost p/SF | Total Heat Cost | Air Condition Cost p/SF | Total Air Condition Cost | Total Heat/Cool Cost |
|------------------------|----------------------|-------------------------|----------------|-----------------|-------------------------|--------------------------|----------------------|
| Subject | Geothermal | 1680 | \$8.39 | \$14,095 | \$2.11 | \$3,545 | \$17,640 |
| 1 - 14570 NW 128th St | Gas Forced Air | 1688 | \$2.96 | \$4,996 | \$1.80 | \$3,038 | \$8,035 |
| 2 - 14490 NW 128th St | Electric Forced Air | 1932 | \$2.81 | \$5,429 | \$1.71 | \$3,304 | \$8,733 |
| 3 - 13040 NW 146th Ave | Gas Forced Air | 1964 | \$3.41 | \$6,697 | \$2.07 | \$4,065 | \$10,763 |

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review and explained the adjustments to Houge's property regarding his geo-thermal heating. She explained the heating/cooling costs are based, in part, on the grade and size of a property, which in turn impacts the per square foot cost listed on the Property Record Cards (PRC). Houge's property has a 3-05 grade, whereas Comparables 1 and 2 have 4+00 grades and Comparable 3 has a 3+00 grade. Additionally, Comparables 2 and 3 are more than 250 square feet larger than his

property. Different grades and GLA will affect the per-square-foot costs applied for different elements of construction.

Rasmussen also explained that geo-thermal heating has specific costs associated with it. The DEPARTMENT OF REVENUE, 2008 REAL PROPERTY APPRAISAL MANUAL includes heating, such as gas-forced air (GFA) or electric-forced air (EFA), in the base price of a home and if applicable, an air conditioning adjustment is then applied. However, because a geo-thermal home has extra components that are not in the typical base heating, an additional geo-thermal heating adjustment is added to the costs of properties with this system.

Rasmussen stated the Assessor's Office relied on the MANUAL to cost the individual elements. In an effort to ensure that the costs were appropriately applied, the Assessor's Office contacted Bob Ehler, President of Vanguard Appraisals. (Ex. G). Vanguard Appraisals assisted in writing the MANUAL. Ehler's email explains the process for valuing a home's heating and cooling system.

Lastly, Rasmussen noted that because geo-thermal heating is a more expensive heating/cooling system, but has recognized energy efficiencies, the State of Iowa offers an exemption to encourage its use.

Grade

Houge also asserts his property's grade is incorrect and the Assessor's Office erred in changing it from a 4+00 to 3-05 for the 2015 assessment. Houge asserts that two individuals from Polk County inspected his property in 2008 when it was being constructed. In his opinion, the grade should remain at 4+00 based on that interior inspection. However, it is not clear that the inspectors were from the Assessor's Office. Houge did not offer any other evidence of the property's grade, such as interior photos or detailed plans and specifications to support this claim.

Rasmussen explained that the appraiser who viewed Houge's property during the re-assessment did not believe the grade had been correctly determined when it was originally constructed. That appraiser increased the grade based on a drive-by inspection of the property.

iii. Analysis

Geothermal Cost

Houge's claim of inequity is tied to his error claim. Essentially, he asserts both that the cost of specific heating and cooling elements have been inequitably applied and that air is listed for his property in error.

Reviewing Houge's Property Record Card (PRC) and Houge's comparable PRCs, we understand how he believes inequities and errors exist in the listings. However, nothing indicates the values determined in the PRC are incorrect or inequitable. If the multiplier for grade differences were removed for the properties, and considering the differences in their square feet, there is approximately a \$4 difference per square foot for his geothermal system. This value is in line with the MANUAL and Ehler's letter.

| Address | Grade & Multiplier | Heating Cost/SF | Air Cost/SF | Adjusted Heating Cost/SF | Adjusted Air Cost/SF | Adjusted Total Cost/SF |
|--------------------|--------------------|-----------------|-------------|--------------------------|----------------------|------------------------|
| Subject | 3-05; 1.23 | \$8.39 | \$2.11 | \$6.82 | \$1.72 | \$8.54 |
| 14570 NW 128th St | 4+00; 1.05 | \$2.96 | \$1.80 | \$2.82 | \$1.71 | \$4.53 |
| 14490 NW 128th St | 4+00; 1.05 | \$2.81 | \$1.71 | \$2.68 | \$1.63 | \$4.31 |
| 13040 NW 146th Ave | 3+00; 1.28 | \$3.41 | \$2.07 | \$2.66 | \$1.62 | \$4.28 |

Additionally, if Houge wanted to know whether the heating and cooling component of his property were actually inequitably assessed, a more preferred method would be to examine other properties with geothermal heating. Alternatively, Houge would possibly be better served in determining whether the total value of the property with geothermal heating is in line with its actual market value.

Finally, we note that because geo-thermal heating has recognized energy efficiencies, the State offers an exemption to encourage its use in construction. Rasmussen recommended that Houge call the Assessor's Office to inquire about applying for the exemption.

Grade

Houge also asserts Assessor's Office and Board of Review erred in changing the grade of his property from a 4+00 to a 3-05. He contends nothing has changed with the property and therefore the grade should not have changed. However, Rasmussen testified that the appraiser who viewed the property from the exterior determined the

grade had been applied *incorrectly* when it was originally assessed. As such, there was a change in the grade to reflect this opinion. We recognize there is some subjectivity in determining the grade of a property; however, it also considers the quality of the construction materials and design of the home. Comparing the exterior photographs of all the properties in the record with the subject, it does not appear to this Board that the 3-05 grade is plainly erroneous. The subject shares common exterior architectural features as other 3-05 grade properties. Houge did not submit any evidence of the quality of his property, such as photographs or detailed plans and specifications that would support his opinion the property's grade is incorrect. While Houge indicated he did not believe it was his burden to schedule an inspection of his home, we suggest it may be in his interest to request an interior inspection to assure the property's grade is correct.


Based on the forgoing analysis, we conclude Houge has failed to support his claim that his property is inequitably assessed or that there is an error in the assessment.

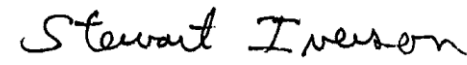
Order

Having concluded that Houge has not shown his property is inequitably assessed or that there is an error in the assessment, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 6th day of September, 2016.


Karen Oberman, Presiding Officer


Stewart Iverson, Board Chair

Copies to:

Tim Houge
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Madrid, Iowa 50156

Mark Taylor by eFile